

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Application No.:	10/828,744	Confirm. No.:	5476
Filing Date:	April 20, 2004	Examiner:	Robinson, James M.
First Inventor:	Tracy E. Grim	Art Unit:	3772
Attorney No.:	GRIM3001/JJC/KDW	Customer No.:	23364
For:	SPLINT OR SUPPORT WITH QUICK LOCATION TECHNIQUE		

APPEAL BRIEF

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

INTRODUCTORY COMMENTS

This is an appeal brief filed pursuant to the appellant's appeal to the Board of Patent Appeals and Interferences from the rejection of claims 6, 9-11, 14, 15, 18, 20-29 and 40-50 in the above-identified application.

A petition to extend the period for reply by two months is concurrently filed.

I. REAL PARTY OF INTEREST

The real party of interest is the assignee of record: Össur hf.

II. RELATED APPEALS AND INTERFERENCES

There are no other appeals or interferences which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

III. STATUS OF CLAIMS

a. Status of claims in proceeding

Claims 6, 9-11, 14, 15, 18, 20-29 and 40-50 are currently pending.

Claims 6, 9, 14, 15, 18, 20-22, 25-27, 29, 40-42, 44, and 46-50 are currently rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. patent 6,106,492 (*Darcey*) in view of U.S. patent 5,755,678 (*Parker*), U.S. patent 6,042,557 (*Ferguson*), and U.S. patent 4,366,814 (*Reidel*).

Claims 10, 11, 28, 43 and 45 are currently rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. patent 6,106,492 (*Darcey*) in view of U.S. patent 5,755,678 (*Parker*), U.S. patent 6,042,557 (*Ferguson*), U.S. patent 4,366,814 (*Reidel*), and further in view of U.S. patent 6,139,513 (*Grim*).

Claims 23 and 24 are currently rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. patent 6,106,492 (*Darcey*) in view of U.S. patent 5,755,678 (*Parker*), U.S. patent 6,042,557 (*Ferguson*), U.S. patent 4,366,814 (*Reidel*), and further in view of U.S. patent 5,195,944 (*Schlogel*).

Claims 1-5, 7, 8, 12, 13, 16, 17, 19 and 30-39 are canceled.

b. Identification of claims on appeal

Claims 6, 9-11, 14, 15, 18, 20-29 and 40-50 are currently appealed herein.

- Claim 6 is an independent claim, and claims 9-11, 14, 15, 18, 20-24 and 48 depend from claim 6.
- Claim 25 is an independent claim, and claims 26-29 and 49 depend from claim 25.
- Claim 40 is an independent claim, and claims 41-47 and 50 depend from claim 40.

IV. STATUS OF AMENDMENTS

There are no outstanding amendments to the claims. The most recent amendment was filed on June 19, 2008 and subsequently entered by the examiner.

V. SUMMARY OF CLAIMED SUBJECT MATTER

For the purposes of appeal, the rejection of independent claims 6, 25 and 40 is appealed. Each of claims 6, 25 and 40 are rejected under essentially the same grounds.

The patentability of dependent claims 9-11, 14, 15, 18, 20-24 and 48 will rise or fall based on the determination of the patentability of claim 6.

The patentability of dependent claims 26-29 and 49 will rise or fall based on the determination of the patentability of claim 25.

The patentability of dependent claims 41-47 and 50 will rise or fall based on the determination of the patentability of claim 40.

A. Claim 6

An efficient splint or support (52) comprises an orthopedic blank (52) that is impregnated with hardenable material, a primary tacking arrangement (54) for holding the blank (52) in place on the injured part of the patient's anatomy so as to still allow adjustment of the blank with respect to the anatomy, and secondary holding arrangements (30) provided over the primary tacking arrangement (54) (Figs. 2 and 3; paragraph [00034] (page 5, lines 23-25); paragraph [00035] (page 5, line 26 to page 6, line 3); paragraph [0006] (page 2, lines 6-9)).

The orthopedic blank has an outer surface covered with hook receivable material (paragraph [00035] (page 6, lines 1-3)).

The primary tacking arrangement (54) comprises at least one strip (54) of a non-woven material having opposed end portions with hook type patches (55,56) secured on the opposed end portions. The non-woven material is adapted to receive the hook type patches (55,56), wherein the strip of non-woven material is stretchable, tearable, low profile and of insufficient strength to rigidly immobilize the splint for long-term use (Fig. 3; paragraph [00035] (page 5, line 26 to page 6, line 7); paragraph [00036] (page 6, lines 11-20); paragraph [00013] (page 2, lines 24-27)).

The hook receivable material on the outer surface of the blank (52) is adapted to receive the hook type patches (55,56) of the strip (54) (Fig. 3; paragraph [00035] (page 6, lines 1-3)).

The secondary holding arrangements (30) are provided over said primary tacking arrangement (54) for functionally securing the blank (52) in place on the patient after the blank has been activated and properly mounted on the patient (Fig. 1; paragraph [0006] (page 2, lines 6-9); paragraph [00031] (page 5, lines 3-5)).

The primary tacking arrangement (54) is removable and repositionable at any location along an axial length of the blank (52) (Fig. 3; paragraph [0036] (page 6, lines 15-16)).

B. Claim 25

An efficient splint or support (52) comprises an orthopedic blank (52) impregnated with hardenable material, a primary tacking arrangement (54) for holding the blank in place on the injured part of the patient's anatomy so as to still allow adjustment of the blank (52) with respect to the anatomy, and secondary holding arrangements (30) overlying the blank and the primary tacking arrangement (54) (Figs. 2 and 3; paragraph [00034] (page 5, lines 23-25); paragraph [00035] (page 5, line 26 to page 6, line 3); paragraph [0006] (page 2, lines 6-9)).

The blank (52) has a covering formed of a hook receivable material (paragraph [00035] (page 6, lines 1-3)).

The primary tacking arrangement (54) comprises at least one stretchable strip (54) of hook receivable material having opposed end portions with hook type patches (55,56) located at the opposed end portions. The strip (54) is a non-woven material that is stretchable, tearable, low profile and of insufficient strength to rigidly immobilize the splint for long-term use (Fig. 3; paragraph [00035] (page 5, line 26 to page 6, line 7); paragraph [00036] (page 6, lines 11-20); paragraph [00013] (page 2, lines 24-27)).

The hook receivable material of the blank (52) is adapted to receive the hook type patches (55,56) of the strip (54) (Fig. 3; paragraph [00035] (page 6, lines 1-3)).

The secondary holding arrangements (30) comprise an exo-skeletal structure (106) overlying the blank (52) and the primary tacking arrangement (54) for functionally securing the blank in place on the patient after the blank has been activated and properly mounted on the patient (Figs. 3 and 10; paragraph [0047] (page 9, lines 8-20)).

The primary tacking arrangement is removable and repositionable at any location along an axial length of the blank (Fig. 3; paragraph [0036] (page 6, lines 15-16)).

C. Claim 40

An efficient splint or support (52) comprises an elongate blank (52) in roll form impregnated with hardenable material, a laterally extending primary tacking arrangement (54) for holding the blank in place on the injured part of the patient's anatomy so as to still allow adjustment of the blank (52) with respect to the anatomy, and secondary holding arrangements (30) provided over said primary tacking arrangement (54) (Figs. 2 and 3; paragraph [00034] (page 5, lines 23-25); paragraph [00035] (page 5, line 26 to page 6, line 3); paragraph [0006] (page 2, lines 6-9)).

The blank (52) comprises at least one layer of additional non-impregnated material (44) on at least one side of the blank. A first side of the blank (52) is covered with a padding material (40) and a second side of the blank is covered with a hook receivable material (44) (Figs. 2 and 3; paragraph [00033] (page 5, lines 13-22)).

The laterally extending primary tacking arrangement (54) includes a strip (54) defining opposed end portions with hook type patches (55,56) located at the opposed end portions. The strip is a non-woven material that is stretchable, tearable, low profile and of insufficient strength to rigidly immobilize the splint for long-term use (Fig. 3; paragraph [00035] (page 5, line 26 to page 6, line 7); paragraph [00036] (page 6, lines 11-20); paragraph [00013] (page 2, lines 24-27)).

The hook receivable material on the second side of the blank (52) is adapted to receive the hook type patches (55,56) of the primary tacking arrangement (54) (Figs. 2 and 3; paragraph [00035] (page 6, lines 1-3)).

The secondary holding arrangements (30) are provided over the primary tacking arrangement (54) for functionally securing the blank (52) in place on the patient after the blank has been activated and properly mounted on the patient (Fig. 1; paragraph [0006] (page 2, lines 6-9); paragraph [00031] (page 5, lines 3-5)).

The primary tacking arrangement (54) is removable and repositionable at any location along an axial length of the blank (52) (Fig. 3; paragraph [0036] (page 6, lines 15-16)).

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Claims 6, 9, 14, 15, 18, 20-22, 25-27, 29, 40-42, 44, and 46-50 are currently rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. patent 6,106,492 (*Darcey*) in view of U.S. patent 5,755,678 (*Parker*), U.S. patent 6,042,557 (*Ferguson*), and U.S. patent 4,366,814 (*Reidel*).

The rejection of independent claims 6, 25 and 40 is currently appealed herein.

VII. ARGUMENT

A. Overview

Claims 6, 9, 14, 15, 18, 20-22, 25-27, 29, 40-42, 44, and 46-50 are currently rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. patent 6,106,492 (*Darcey*) in view of U.S. patent 5,755,678 (*Parker*), U.S. patent 6,042,557 (*Ferguson*), and U.S. patent 4,366,814 (*Reidel*).

The rejection of claims 6, 25 and 40 is currently appealed herein.

It is submitted that the proposed combination of *Darcey*, *Parker*, *Ferguson* and *Reidel* fails to render the independent claims 6, 25 and 40 *prima facie* obvious. Accordingly, reversal of the rejection of claims 6, 25 and 40 is requested, as well as the rejection of claims 9-11, 14, 15, 18, 20-24, 26-29, 41-47 and 48-50 which depend from claims 6, 25 and 40.

B. Pertinent Law on Obviousness

In rejecting claims under 35 U.S.C. § 103, it is incumbent upon the examiner to establish a factual basis to support the legal conclusion of obviousness. *See In re Fine*, 837 F.2d 1071, 1073, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988). In so doing, the examiner must make the factual determinations set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 17, 148 USPQ 459, 467 (1966), *viz.*, (1) the scope and content of the prior art; (2) the differences between the prior art and the claims at issue; and (3) the level of ordinary skill in the art.

The scope and content of the prior art, and the level of ordinary skill in the art may be evidenced by the prior art references. *In re GPAC Inc.*, 57 F.3d 1573, 1579, 35 USPQ2d 1116, 1121 (Fed. Cir. 1995); *see also In re Oelrich*, 579 F.2d 86, 91, 198 USPQ 210, 214 (CCPA 1978).

The examiner bears the initial burden of presenting a *prima facie* case of obviousness. *In re Oetiker*, 977 F.2d, 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992). In order to establish a *prima facie* case of obviousness, the examiner must show that each and every limitation of the claim is described or suggested by the prior art or would have been obvious based on the knowledge of those of ordinary skill in the art. *See Fine*, 837 F.2d at 1074, 5 USPQ2d at 1598.

Furthermore, “‘there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness’.... [H]owever, the analysis need

not seek out precise teachings directed to the specific subject matter of the challenged claim, for a court can take account of the inferences and creative steps that a person of ordinary skill in the art would employ.” *KSR Int’l Co. v. Teleflex Inc.*, 127 S. Ct. 1727, 1741, 82 USPQ2d 1385, 1396 (2007) (quoting *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006)). Obviousness is then determined on the basis of the evidence as a whole and the relative persuasiveness of the arguments. *See Oetiker*, 977 F.2d at 1445, 24 USPQ2d at 1444; *In re Piasecki*, 745 F.2d 1468, 1472, 223 USPQ 785, 788 (Fed. Cir. 1984).

C. Claims 6, 25 and 40

Independent claims 6, 25 and 40, require a splint comprising a primary tacking arrangement for holding an orthopedic blank in place on an injured part of a patient’s anatomy in a manner that allows adjustment of the blank with respect to the anatomy. The claims further require that the primary tacking arrangement is of insufficient strength to rigidly immobilize the splint for long-term use.

The primary tacking arrangement is a temporary strap that holds the orthopedic blank so as to enable single-person application of a secondary more supportive securing means. The primary tacking arrangement is extremely lightweight and low profile. Also, when stretched, the primary tacking arrangement gradually tears over relatively small loads before completely separating.

The primary tacking arrangement possesses a unique combination of strength, stretch and tear properties that provide significant advantages in the application of splints. For instance, during application of a splint to an injured portion of a person’s anatomy, even the slightest pressure can cause intense pain. It is also critical that good circulation is maintained to the injured body part.

The unique set of strength, stretch and tear properties of the primary tacking arrangement allow it to be strong enough to hold the orthopedic blank so as to allow single-person application of a secondary securing means, yet delicate enough such that the primary tacking arrangement does not create pressure points or restrict circulation.

Essentially, the primary tacking arrangement is easily stretchable and designed to tear gradually over relatively small loads before completely separating, thus preventing the primary tacking arrangement from creating pressure points or restricting circulation to the patient.

Because the primary tacking arrangement is easily stretchable and designed to tear gradually over relatively small loads before completely separating, the primary tacking arrangement is of insufficient strength to rigidly immobilize the splint for long-term use.

1. Reasons for Error in Rejection of Claims 6, 25 and 40 as unpatentable over *Darcey* in view of *Parker, Ferguson* and *Reidel*
 - a. The proposed combination of *Darcey, Parker, Ferguson* and *Reidel* does not teach or suggest a primary tacking arrangement comprising a strip of non-woven material of insufficient strength to rigidly immobilize a splint for long-term use

It is submitted that the proposed combination of *Darcey, Parker, Ferguson* and *Reidel* fails to render obvious independent claims 6, 25 and 40, because combining the references as proposed would render the splint assembly in *Darcey* inoperative for its intended purpose.

MPEP 2143.01 (V) states that if a “proposed modification would render the prior art invention being modified unsatisfactory for its intended purposed, then there is no suggestion or motivation to make the proposed modification.” The *2010 KSR Guidelines Update* states, in example 4.6, that the “predictable result” discussed in *KSR* refers not only to the expectation that the prior art elements are capable of being physically combined, but also the expectation that the combination would have worked for its intended purpose.

It is submitted that the cited references teach away from the proposed combination such that the skilled artisan would have actually been deterred from combining the references as proposed; thus, it would not have been obvious to combine the references as proposed in the rejection.

The rejection relies on the splints 14 and the straps 26 in *Darcey* as respective teachings of the orthopedic blank and the primary taking arrangement of claims 6, 25 and 40.

Darcey discloses that the straps 26 are used to secure the splints 14 to the hand and wrist of a patient (col. 7, lines 5-10; Fig. 8-10). The straps 26 are formed of a woven or knitted material 27 having a loose, fibrous covering 28 on its surface (col. 7, lines 7-10). The straps 26 have a D-ring 30 at one end and a patch of hook material 32 at the other end so that the straps 26 can be sufficiently tightened to securely fix the splints 14 on the patient’s hand and wrist (col. 7, lines 9-11 and 27-29).

The splints 14 and straps 26 in *Darcey* are overwrapped with an elastic bandage 34 at least until the splints are completely hardened into proper conformation on the patient's hand and wrist (col. 7, lines 30-35). Once the splints are hardened, the elastic bandage can be removed and the splints can be worn with only the straps 26 securing the splints to the patient. Since the splints can be secured on the patient by the straps 26 alone, the straps 26 of *Darcey* are clearly strong enough to rigidly immobilize the splints 14 for long-term use (col. 7, lines 35-37).

The rejection acknowledges that *Darcey* does not disclose a strap that is of insufficient strength to rigidly immobilize a splint for long-term use. To cure the deficiencies in *Darcey*, the rejection turns to *Parker*.

Parker discloses a heavy elastic strap 124 for securing a shin guard 120 to the leg of a user (Fig. 18; col. 10, line 65 to col. 11, line 5). It is noted, as is shown in Fig. 18, that the strap 124 is the sole securing means for securing the shin guard 120 on the wearer. In other words, the strap 124 alone secures the shin guard 120 to the user's leg. Thus, the strap 124 is also clearly strong enough to rigidly immobilize the shin guard 120 for long-term use.

The rejection acknowledges that *Parker* also does not disclose a strap that is of insufficient strength to rigidly immobilize a splint for long-term use. Indeed, the rejection asserts, on page 5, that the skilled artisan would have been inclined to modify the strap 26 in *Darcey* to be of insufficient strength to rigidly immobilize a splint for long-term use on the basis of the teaching in *Parker* to make the strap 124 in *Parker* "stretchable."

The applicant respectfully disagrees with this assertion and submits that this line of reasoning is misplaced and cannot form the basis of a proper obviousness determination.

It is first submitted that the claimed feature of a primary tacking arrangement comprising a strip of non-woven material of insufficient strength to rigidly immobilize a splint for long-term use is unobvious, since the cited references do not even disclose that this feature is known. That is, the proposed combination amounts to more than a combination of known elements, but rather proposes to modify the strap in *Darcey* to be constructed in a manner not disclosed in the prior art of record.

Secondly, it is noted that the rejection does not offer any specific rationale for modifying *Darcey*, other than asserting that choosing a particular strength of the strap is within the realm of ordinary skill in the art (see pg. 5 of the rejection).

However, since both *Darcey* and *Parker* disclose straps that are the sole securing means for their respective devices and are therefore designed to be durable and strong enough to alone securely hold their respective devices on the wearers, the skilled artisan would have in no way been inclined to modify the straps 26 in *Darcey* to be weaker than their current form.

Indeed, by disclosing straps that are designed to be able to alone securely hold their respective devices on the wearers, *Darcey* and *Parker* both teach away from modifying the straps 26 in *Darcey* to be of insufficient strength to rigidly immobilize the splint for long-term use.

In view of the teachings in *Darcey* and *Parker*, the skilled artisan would have actually been deterred from combining the references as proposed, since modifying the strap 26 in *Darcey* to be of insufficient strength to rigidly immobilize the splint for long-term use would have rendered the splint assembly 10 in *Darcey* inoperative for its intended purpose of being effectively worn by the patient with only the straps 26 securing the splints 14 to the patient.

Ferguson is relied upon for the teaching of straps with hook type patches 38 on opposed end portions of the straps 26 and does not make up for the shortcomings of *Darcey* and *Parker*. In fact, like *Darcey* and *Parker*, the straps 26 in *Ferguson* are also the sole securing means for securing the splint 70 on the animal.

Reidel is relied upon for the teaching of a bandage made of a non-woven material and does not make up for the shortcomings of *Darcey* and *Parker*. *Reidel* provides no discussion of the strength or securing force of the stretch bandages, and thus gives no indication that the stretch bandages can be used as a temporary, relatively weak holding means of insufficient strength to rigidly immobilize a splint for long-term use.

As such, there is simply no suggestion, motivation or other rationale for modifying the straps of *Darcey* such that they are of insufficient strength to rigidly immobilize a splint for long-term use.

It is further submitted that the primary tacking arrangement of the pending claims, which is of insufficient strength to rigidly immobilize a splint for long-term use, provides an unexpected result in the claimed invention.

As described above, the primary tacking arrangement possesses a unique combination of strength, stretch and tear properties. As a result of these properties the primary tacking

arrangement is of insufficient strength to rigidly immobilize a splint for long-term use, but is advantageous as a temporary strap that holds the orthopedic blank so as to enable single-person application of a secondary more supportive securing means.

Thus, the unexpected result of the unique set of strength, stretch and tear properties of the primary tacking arrangement is that it is strong enough to hold the orthopedic blank so as to allow single-person application of a secondary securing means, yet delicate enough such that the primary tacking arrangement does not create pressure points or restrict circulation.

In view of these observations, it is respectfully submitted that the proposed combination of *Darcey*, *Parker*, *Ferguson* and *Reidel* fails to render obvious independent claims 6, 25 and 40.

- b. The proposed combination of *Darcey*, *Parker*, *Ferguson* and *Reidel* does not teach or suggest a primary tacking arrangement comprising a strip of non-woven material

The rejection acknowledges that the straps 26 in *Darcey* are not made of a non-woven material and further modifies *Darcey* in view of the non-woven fabrics disclosed in *Reidel*.

It is submitted that modifying the straps 26 of *Darcey* to have the non-woven fabric in *Reidel* would render the straps 26 of *Darcey* unsatisfactory for their intended purpose (MPEP 2143.01 (V)).

As mentioned above, the straps 26 in *Darcey* are disclosed as being capable of securing the splints 14 without the aid of the bandage 34. *Darcey* also explicitly discloses that the straps 26 are made of a woven or knitted material (col. 7, lines 7-9).

The rejection modifies *Darcey* to have the non-woven fabric in *Reidel* (col. 2, lines 46-53).

Reidel discloses an elastic bandage comprising a fabric treated with a solution or dispersion of elastomer such that the bandage includes at least 15 percent elastomer (col. 3, lines 8-16). The fabric is generally a loosely-woven or knitted fabric. However, extensible non-woven fabrics may also be used (col. 2, lines 46-53). The bandage materials are used as stretch bandages and backings for adhesive tapes and dressings (col. 7, lines 36-38).

Since *Darcey* explicitly discloses that the straps 26 are made of a woven or knitted material, which are both known to be stronger and more durable than non-woven materials,

modifying the *Darcey* straps to have the non-woven material fabric in *Reidel* would reduce the strength and durability of the straps 26 in *Darcey*.

As *Darcey* teaches that the straps are capable of securing the splints 14 alone, without the aid of the bandage 34, there is clearly no suggestion or other rationale to modify the straps 26 such that they are weaker than their current form.

Thus, modifying the straps of *Darcey* to have the non-woven fabric of *Reidel* would render the straps 26 of *Darcey* unsatisfactory for their intended purpose of securely holding the splints on the patient's hand and wrist without the aid of the bandage 34.

Parker and *Ferguson* provide no teaching or suggestion to modify the straps of *Darcey* to be made of a non-woven material.

As such, the skilled artisan would not understand or be inclined to modify *Darcey* to have the non-woven material of *Reidel*.

In view of these observations, it is respectfully submitted that the proposed combination of *Darcey*, *Parker*, *Ferguson* and *Reidel* fails to render obvious independent claims 6, 25 and 40.

c. Closing Remarks

Claims 6, 25 and 40 require a primary tacking arrangement comprising a strip of non-woven material of insufficient strength to rigidly immobilize a splint for long-term use.

For the reasons described above, the proposed combination of *Darcey*, *Parker*, *Ferguson* and *Reidel* does not disclose a primary tacking arrangement that is of insufficient strength to rigidly immobilize a splint for long-term use. The proposed combination of *Darcey*, *Parker*, *Ferguson* and *Reidel* also does not disclose a primary tacking arrangement comprising a strip of non-woven material.

In view of these observations, it is respectfully submitted that the proposed combination of *Darcey*, *Parker*, *Ferguson* and *Reidel* fails to render the pending claims of this rejection *prima facie* obvious.

Reversal of this rejection is kindly requested.

VIII. CONCLUSION

For the reasons set forth above, independent claims 6, 25 and 40 of the pending application defines subject matter that is not anticipated or unpatentable within the meaning of 35 U.S.C. § 102(b) and 103(a), respectively.

Reversal of the rejections of claims 6, 9-11, 14, 15, 18, 20-29 and 40-50 and allowance of these claims are respectfully requested.

BACON & THOMAS, PLLC
625 Slaters Lane, Fourth Floor
Alexandria, Virginia 22314-1176
Phone: (703) 683-0500
Facsimile: (703) 683-1080

Date: September 29, 2010

Respectfully submitted,

/Justin J. Cassell/

JUSTIN J. CASSELL
Attorney for Applicant
Registration No. 46,205

IX. CLAIMS APPENDIX

Claims 1- 5. (Canceled).

Claim 6. An efficient splint or support comprising:

an orthopedic blank impregnated with hardenable material and having an outer surface covered with hook receivable material;

a primary tacking arrangement for holding said blank in place on the injured part of the patient's anatomy in a manner that still allows adjustment of said blank with respect to the anatomy, the primary tacking arrangement comprising at least one strip of a non-woven material having opposed end portions, and hook type patches secured on the opposed end portions, the non-woven material adapted to receive the hook type patches, wherein the strip is stretchable, tearable, low profile and of insufficient strength to rigidly immobilize the splint for long-term use;

wherein the hook receivable material on the outer surface of the blank is adapted to receive the hook type patches of the strip;

secondary holding arrangements provided over said primary tacking arrangement for functionally securing the blank in place on the patient after the blank has been activated and properly mounted on the patient;

wherein the primary tacking arrangement is removable and repositionable at any location along an axial length of the blank;

whereby the splint or support may be easily and properly mounted on the patient.

Claim 7. (Canceled).

Claim 8. (Canceled).

Claim 9. An efficient splint or support as defined in claim 6 wherein said primary tacking arrangement is formed of hook and loop type material.

Claim 10. An efficient splint or support as defined in claim 6 wherein said blank is formed of double knit spacer type material.

Claim 11. An efficient splint or support as defined in claim 6 wherein said splint or support has an additional piece arranged to extend through a web space between a thumb and

forefinger of the patient for assisting in the location of said splint or support on the forearm of the patient.

Claim 12. (Canceled).

Claim 13. (Canceled).

Claim 14. An efficient splint or support as defined in claim 6 wherein said secondary holding arrangements comprise an exo-skeletal structure overlying said blank.

Claim 15. An efficient splint or support as defined in claim 6 wherein said strip is non-rectangular in shape.

Claim 16. (Canceled).

Claim 17. (Canceled).

Claim 18. An efficient splint or support as defined in claim 6 wherein the strip is removable and repositionable with respect to the splint or support.

Claim 19. (Canceled).

Claim 20. An efficient splint or support as defined in claim 6 wherein said orthopaedic blank has a padding layer on at least one side.

Claim 21. An efficient splint or support as defined in claim 6 wherein said secondary holding arrangements include a resilient, flexible, stretchable tape.

Claim 22. An efficient splint or support as defined in claim 6 wherein said blank has a non-rectangular shape and said primary tacking arrangement comprises a plurality of extensions extending laterally from said blank.

Claim 23. An efficient splint or support as defined in claim 6 wherein said blank has slits along the length of the splint or support to reduce bulk after molding.

Claim 24. An efficient splint or support as defined in claim 6 wherein the splint or support assembly includes an anti-flexion strap for increased support.

Claim 25. An efficient splint or support comprising:

- an orthopedic blank impregnated with hardenable material, the blank having a covering formed of a hook receivable material;

- a primary tacking arrangement for holding said blank in place on the injured part of the patient's anatomy in a manner that still allows adjustment of said blank with respect to the anatomy, the primary tacking arrangement comprising at least one stretchable strip of hook receivable material having opposed end portions, and hook type patches located at the opposed end portions, wherein the strip is a non-woven material and is stretchable, tearable, low profile and of insufficient strength to rigidly immobilize the splint for long-term use;

- wherein the hook receivable material of the blank is adapted to receive the hook type patches of the strip;

- secondary holding arrangements comprising an exo-skeletal structure overlying said blank and the primary tacking arrangement for functionally securing the blank in place on the patient after the blank has been activated and properly mounted on the patient;

- wherein the primary tacking arrangement is removable and repositionable at any location along an axial length of the blank;

whereby the splint or support may be easily and properly mounted on the patient.

Claim 26. An efficient splint or support as defined in claim 25 wherein said blank has a covering formed of hook receivable material and said primary tacking arrangement are provided with a hook type construction thereon.

Claim 27. An efficient splint or support as defined in claim 25 wherein said orthopaedic blank has a non-rectangular shape to fit a specific portion of the anatomy.

Claim 28. An efficient splint or support as defined in claim 25 wherein said blank is formed of double knit spacer type material.

Claim 29. An efficient splint or support as defined in claim 25 wherein said tacking arrangements are non-rectangular in shape.

Claims 30-39. (Canceled).

Claim 40 An efficient splint or support comprising:

- an elongate blank in roll form impregnated with hardenable material;
- at least one layer of additional non-impregnated material on at least one side of said blank, a first side of the blank covered with a padding material and a second side of the blank covered with a hook receivable material;

- a laterally extending primary tacking arrangement for holding said blank in place on the injured part of the patient's anatomy in a manner that still allows adjustment of the blank with respect to the anatomy, the primary tacking arrangement including a strip defining opposed end portions and hook type patches located at the opposed end portions, wherein the strip is a non-woven material and is stretchable, tearable, low profile and of insufficient strength to rigidly immobilize the splint for long-term use;

- wherein the hook receivable material on the second side of the blank is adapted to receive the hook type patches of the primary tacking arrangement;
- secondary holding arrangements provided over said primary tacking arrangement for functionally securing the blank in place on the patient after the blank has been activated and properly mounted on the patient;

- wherein the primary tacking arrangements are removable and repositionable at any location along an axial length of the blank;
- whereby the splint or support may be easily and properly mounted on the patient.

Claim 41. An efficient splint or support as defined in claim 40 wherein said additional layer is a padding material.

Claim 42. An efficient splint or support as defined in claim 40 wherein one side of said blank is covered with a padding material and the other with a hook receivable material and said primary tacking arrangement are provided with a hook type construction thereon.

Claim 43. An efficient splint or support as defined in claim 40 wherein said padding material is a double knit fabric.

Claim 44. An efficient splint or support as defined in claim 40 wherein said hook received material is unbroken loop fabric.

Claim 45. An efficient splint or support as defined in claim 40 wherein said blank is formed of knit spacer material.

Claim 46. An efficient splint or support as defined in claim 40 wherein said blank is formed of multiple layers of casting material.

Claim 47. An efficient splint or support as defined in claim 40 wherein said tacking arrangements are non-rectangular in shape.

Claim 48. An efficient splint or support as defined in claim 6 wherein said non-woven material is hydrophobic.

Claim 49. An efficient splint or support as defined in claim 25 wherein said non-woven material is hydrophobic.

Claim 50. An efficient splint or support as defined in claim 40 wherein said non-woven material is hydrophobic.

X. EVIDENCE APPENDIX

There are no copies of evidence entered and relied upon in this appeal
of the pending application.

XI. RELATED PROCEEDINGS APPENDIX

There are no related proceedings or decisions rendered by a court or the Board of Appeals in any proceeding identified in the related appeals and interferences section in the pending application.